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General Arbitration Treaties with Great Britain and France.

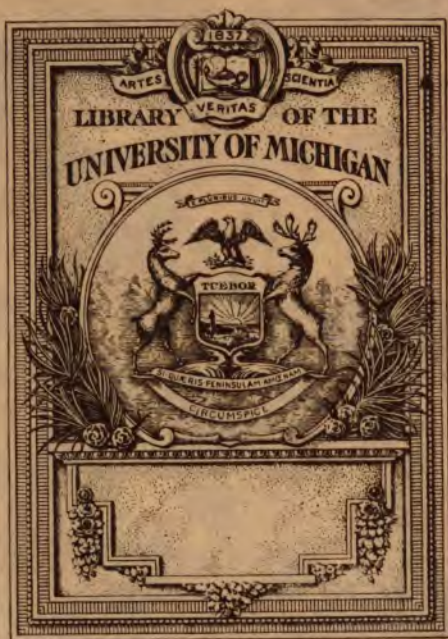
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62D CONGRESS }
2d Session }

SENATE

{ DOCUMENT
No. 476

U.S. Treaties, etc., 1909-1912 (Taft)

GENERAL ARBITRATION TREATIES

WITH

GREAT BRITAIN AND FRANCE

RATIFIED BY THE SENATE ON MARCH 5, 1912
CALENDAR DAY MARCH 7, 1912, TOGETHER
WITH THE RESOLUTIONS OF RATI-
FICATION THEREON



WASHINGTON
GOVERNMENT PRINTING OFFICE
1912

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1912

IN THE SENATE OF THE UNITED STATES,
March 28, 1912.

(Calendar day March 29.)

Ordered, That the treaties of general arbitration between the United States and Great Britain and France, as ratified by the Senate, be printed as a Senate document.

Attest:

CHAS. G. BENNETT,
Secretary.

By H. M. ROSE,
Assistant Secretary.

35-1-2

ARBITRATION WITH GREAT BRITAIN.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

AN AUTHENTICATED COPY OF A TREATY SIGNED BY THE PLENIPOTENTIARIES OF THE UNITED STATES AND GREAT BRITAIN ON AUGUST 3, 1911, EXTENDING THE SCOPE AND OBLIGATION OF THE POLICY OF ARBITRATION ADOPTED IN THE PRESENT ARBITRATION TREATY OF APRIL 4, 1908, BETWEEN THE TWO COUNTRIES, SO AS TO EXCLUDE CERTAIN EXCEPTIONS CONTAINED IN THAT TREATY AND TO PROVIDE MEANS FOR THE PEACEFUL SOLUTION OF ALL QUESTIONS OF DIFFERENCE WHICH IT SHALL BE FOUND IMPOSSIBLE IN FUTURE TO SETTLE BY DIPLOMACY.

AUGUST 5, 1911.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

AUGUST 5, 1911.—Injunction of secrecy removed.

MARCH 5, 1912.—Ratified with amendments.

(Strike out the parts in brackets and insert those in italics.)

To the Senate:

With a view to receiving the advice and consent of the Senate to the ratification of the treaty, I transmit herewith an authenticated copy of a treaty signed by the plenipotentiaries of the United States and Great Britain on August 3, 1911, extending the scope and obligation of the policy of arbitration adopted in the present arbitration treaty of April 4, 1908, between the two countries, so as to exclude certain exceptions contained in that treaty and to provide means for the peaceful solution of all questions of difference which it shall be found impossible in future to settle by diplomacy.

THE WHITE HOUSE,
Washington, August 4, 1911.

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WM. H. TAFT.

1 The United States of America and His Majesty the King of the
 2 United Kingdom of Great Britain and Ireland and of the British
 3 Dominions beyond the Seas, Emperor of India, being equally
 4 desirous of perpetuating the peace, which has happily existed
 5 between the two nations, as established in 1814 by the Treaty of
 6 Ghent, and has never since been interrupted by an appeal to
 7 arms, and which has been confirmed and strengthened in recent
 8 years by a number of treaties whereby pending controversies
 9 have been adjusted by agreement or settled by arbitration or
 10 otherwise provided for; so that now for the first time there are
 11 no important questions of difference outstanding between them,
 12 and being resolved that no future differences shall be a cause of
 13 hostilities between them or interrupt their good relations and
 14 friendship;

15 The High Contracting Parties have, therefore, determined, in
 16 furtherance of these ends, to conclude a treaty extending the
 17 scope and obligations of the policy of arbitration adopted in
 18 their present arbitration treaty of April 4, 1908, so as to exclude
 19 certain exceptions contained in that treaty and to provide
 20 means for the peaceful solution of all questions of difference
 21 which it shall be found impossible in future to settle by diplo-
 22 macy, and for that purpose they have appointed as their respec-
 23 tive Plenipotentiaries:

24 The President of the United States of America, the Honorable
 25 Philander C. Knox, Secretary of State of the United States;
 26 and

27 His Britannic Majesty, the Right Honorable James Bryce,
 28 O. M., his Ambassador Extraordinary and Plenipotentiary
 29 at Washington;

30 Who, having communicated to one another their full powers,
 31 found in good and due form, have agreed upon the following
 32 articles:

33 ARTICLE I.

34 All differences hereafter arising between the High Contracting
 35 Parties, which it has not been possible to adjust by diplomacy,
 36 relating to international matters in which the High Contracting
 37 Parties are concerned by virtue of a claim of right made by one
 38 against the other under treaty or otherwise, and which are justici-
 39 able in their nature by reason susceptible of decision by

1 the application of the principles of law or equity, shall be sub-
 2 mitted to the Permanent Court of Arbitration established at The
 3 Hague by the Convention of October 18, 1907, or to some other
 4 arbitral tribunal, as *shall* [may] be decided in each case by
 5 special agreement, which special agreement shall provide for the
 6 organization of such tribunal if necessary, define the scope of the
 7 powers of the arbitrators, the question or questions at issue, and
 8 settle the terms of reference and the procedure thereunder.

9 The provisions of Articles 37 to 90, inclusive, of the Conven-
 10 tion for the Pacific Settlement of International Disputes con-
 11 cluded at the Second Peace Conference at The Hague on the 18th
 12 October, 1907, so far as applicable, and unless they are incon-
 13 sistent with or modified by the provisions of the special agree-
 14 ment to be concluded in each case, and excepting Articles 53
 15 and 54 of such Convention, shall govern the arbitration proceed-
 16 ings to be taken under this Treaty.

17 The special agreement in each case shall be made on the part of
 18 the United States by the President of the United States, by and
 19 with the advice and consent of the Senate thereof, His Majesty's
 20 Government reserving the right before concluding a special agree-
 21 ment in any matter affecting the interests of a self-governing
 22 dominion of the British Empire to obtain the concurrence therein
 23 of the government of that dominion.

24 Such agreements shall be binding when confirmed by the two
 25 Governments by an exchange of notes.

26 ARTICLE II.

27 The High Contracting Parties further agree to institute as
 28 occasion arises, and as hereinafter provided, a Joint High Com-
 29 mission of Inquiry to which, upon the request of either Party,
 30 shall be referred for impartial and conscientious investigation
 31 any controversy between the Parties within the scope of Article
 32 I, before such controversy has been submitted to arbitration,
 33 and also any other controversy hereafter arising between them
 34 even if they are not agreed that it falls within the scope of
 35 Article I; provided, however, that such reference may be post-
 36 poned until the expiration of one year after the date of the
 37 formal request therefor, in order to afford an opportunity for
 38 diplomatic discussion and adjustment of the questions in con-
 39 troversy, if either Party desires such postponement.

1 Whenever a question or matter of difference is referred to the
 2 Joint High Commission of Inquiry, as herein provided, each of
 3 the High Contracting Parties shall designate three of its nationals
 4 to act as members of the Commission of Inquiry for the pur-
 5 poses of such reference; or the Commission may be otherwise
 6 constituted in any particular case by the terms of reference,
 7 the membership of the Commission and the terms of reference
 8 to be determined in each case by an exchange of notes.

9 The provisions of Articles 9 to 36, inclusive, of the Convention
 10 for the Pacific Settlement of International Disputes concluded
 11 at The Hague on the 18th October, 1907, so far as applicable and
 12 unless they are inconsistent with the provisions of this Treaty,
 13 or are modified by the terms of reference agreed upon in any
 14 particular case, shall govern the organization and procedure of
 15 the Commission.

16 ARTICLE III.

17 The Joint High Commission of Inquiry, instituted in each case
 18 as provided for in Article II, is authorized to examine into and
 19 report upon the particular questions or matters referred to it,
 20 for the purpose of facilitating the solution of disputes by eluci-
 21 dating the facts, and to define the issues presented by such
 22 questions, and also to include in its report such recommenda-
 23 tions and conclusions as may be appropriate.

24 The reports of the Commission shall not be regarded as deci-
 25 sions of the questions or matters so submitted either on the
 26 facts or on the law and shall in no way have the character of an
 27 arbitral award.

28 [It is further agreed, however, that in cases in which the Par-
 29 ties disagree as to whether or not a difference is subject to
 30 arbitration under Article I of this Treaty, that question shall be
 31 submitted to the Joint High Commission of Inquiry; and if all
 32 or all but one of the members of the Commission agree and report
 33 that such difference is within the scope of Article I, it shall be
 34 referred to arbitration in accordance with the provisions of this
 35 Treaty.]

36 ARTICLE IV.

37 The Commission shall have power to administer oaths to
 38 witnesses and take evidence on oath whenever deemed necessary
 39 in any proceeding, or inquiry, or matter within its jurisdiction

1 under this Treaty; and the High Contracting Parties agree to
 2 adopt such legislation as may be appropriate and necessary to
 3 give the Commission the powers above mentioned, and to pro-
 4 vide for the issue of subpoenas and for compelling the attendance
 5 of witnesses in the proceedings before the Commission.

6 On the inquiry both sides must be heard, and each Party is
 7 entitled to appoint an Agent, whose duty it shall be to represent
 8 his Government before the Commission and to present to the Com-
 9 mission, either personally or through counsel retained for that
 10 purpose, such evidence and arguments as he may deem necessary
 11 and appropriate for the information of the Commission.

12 ARTICLE V.

13 The Commission shall meet whenever called upon to make an
 14 examination and report under the terms of this Treaty, and the
 15 Commission may fix such times and places for its meetings as
 16 may be necessary, subject at all times to special call or direction
 17 of the two Governments. Each Commissioner, upon the first
 18 joint meeting of the Commission after his appointment, shall,
 19 before proceeding with the work of the Commission, make and
 20 subscribe a solemn declaration in writing that he will faithfully
 21 and impartially perform the duties imposed upon him under this
 22 Treaty, and such declaration shall be entered on the records of
 23 the proceedings of the Commission.

24 The United States and British sections of the Commission may
 25 each appoint a secretary, and these shall act as joint secretaries
 26 of the Commission at its joint sessions, and the Commission may
 27 employ experts and clerical assistants from time to time as it
 28 may deem advisable. The salaries and personal expenses of
 29 the Commission and of the agents and counsel and of the sec-
 30 retaries shall be paid by their respective Governments and all
 31 reasonable and necessary joint expenses of the Commission
 32 incurred by it shall be paid in equal moieties by the High Con-
 33 tracting Parties.

34 ARTICLE VI.

35 This Treaty shall supersede the Arbitration Treaty concluded
 36 between the High Contracting Parties on April 4, 1908, but all
 37 agreements, awards, and proceedings under that Treaty shall
 38 continue in force and effect and this Treaty shall not affect in any
 39 way the provisions of the Treaty of January 11, 1909, relating to

1 questions arising between the United States and the Dominion
2 of Canada.

3 ARTICLE VII.

4 The present Treaty shall be ratified by the President of the
5 United States of America, by and with the advice and consent
6 of the Senate thereof, and by His Britannic Majesty. The rati-
7 fications shall be exchanged at Washington as soon as possible
8 and the Treaty shall take effect on the date of the exchange of
9 its ratifications. It shall thereafter remain in force continuously
10 unless and until terminated by twenty-four months' written
11 notice given by either High Contracting Party to the other.

12 In faith whereof the respective Plenipotentiaries have signed
13 this Treaty in duplicate and have hereunto affixed their seals.

14 Done at Washington the third day of August, in the year of
15 our Lord one thousand nine hundred and eleven.

[SEAL.]

PHILANDER C. KNOX.

[SEAL.]

JAMES BRYCE.

I certify that the foregoing is a true copy of the original treaty this
day signed.

PHILANDER C. KNOX,
Secretary of State.

AUGUST 3, 1911.

IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES.

(Legislative day, MARCH 5, 1912; calendar day, MARCH 7, 1912.)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of a treaty signed by the plenipotentiaries of the United States and Great Britain on August 3, 1911, extending the scope and obligation of the policy of arbitration adopted in the present arbitration treaty of April 4, 1908, between the two countries, so as to exclude certain exceptions contained in that treaty and to provide means for the peaceful solution of all questions of difference which it shall be found impossible in future to settle by diplomacy, with the following

AMENDMENTS.

On page 3, line 4, after the word "tribunal" add a comma.

In the same line strike out "may" and insert in lieu thereof "shall."

On page 4 strike out the paragraph commencing on line 28 and ending on line 35.

Provided, That the Senate advises and consents to the ratification of the said treaty with the understanding, to be made part of such ratification, that the treaty does not authorize the submission to arbitration of any question which affects the admission of aliens into the United States, or the admission of aliens to the educational institutions of the several States, or the territorial integrity of the several States or of the United States, or concerning the question of the alleged indebtedness or monied obligation of any State of the United States, or any question which depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe doctrine, or other purely governmental policy.

Attest:

CHARLES G. BENNETT,

Secretary.

By H. M. ROSE,

Assistant Secretary.

ARBITRATION WITH FRANCE.

MESSAGE

FROM THE

PRESIDENT OF THE UNITED STATES,

TRANSMITTING

AN AUTHENTICATED COPY OF A TREATY SIGNED BY THE PLENIPOTENTIARIES OF THE UNITED STATES AND FRANCE ON AUGUST 3, 1911, EXTENDING THE SCOPE AND OBLIGATION OF THE POLICY OF ARBITRATION ADOPTED IN THE PRESENT ARBITRATION TREATY OF FEBRUARY 10, 1908, BETWEEN THE TWO COUNTRIES, SO AS TO EXCLUDE CERTAIN EXCEPTIONS CONTAINED IN THAT TREATY AND TO PROVIDE MEANS FOR THE PEACEFUL SOLUTION OF ALL QUESTIONS OF DIFFERENCE WHICH IT SHALL BE FOUND IMPOSSIBLE IN FUTURE TO SETTLE BY DIPLOMACY.

AUGUST 5, 1911.—Read; convention read the first time and referred to the Committee on Foreign Relations, and, together with the message and accompanying papers, ordered to be printed in confidence for the use of the Senate.

AUGUST 5, 1911.—Injunction of secrecy removed.

AUGUST 12, 1911.—Reported by Mr. CULLOM, with amendments. Injunction of secrecy removed from proposed amendments.

MARCH 5, 1912.—Ratified with amendments.

(Strike out the parts in brackets and insert those in italics.)

To the Senate:

With a view to receiving the advice and consent of the Senate to the ratification of the treaty, I transmit herewith an authenticated copy of a treaty signed by the plenipotentiaries of the United States and France on August 3, 1911, extending the scope and obligation of the policy of arbitration adopted in the present arbitration treaty of February 10, 1908, between the two countries, so as to exclude certain exceptions contained in that treaty and to provide means for the peaceful solution of all questions of difference which it shall be found impossible in future to settle by diplomacy.

WM. H. TAFT.

THE WHITE HOUSE,
Washington, August 4, 1911.

1 GENERAL ARBITRATION TREATY BETWEEN THE UNITED STATES
2 OF AMERICA AND THE FRENCH REPUBLIC.

3 The United States of America and the French Republic being
4 equally desirous of perpetuating the firm, inviolable and uni-
5 versal peace, which has happily existed between the two nations
6 from the earliest days of American independence, and which
7 has been confirmed and strengthened by their close relations of
8 friendship and commerce, and there being no important ques-
9 tion of difference now outstanding between them, and both
10 nations being resolved that no future difference shall be a cause
11 of hostilities between them or interrupt their good relations;

12 The High Contracting Parties have, therefore, determined, in
13 furtherance of this end, to conclude a treaty extending the
14 scope and obligations of the policy of arbitration adopted in
15 their present arbitration treaty of February 10, 1908, so as to
16 exclude certain exceptions contained in that Treaty and to
17 provide means for the peaceful solution of all questions of differ-
18 ence which it shall be found impossible in future to settle by
19 diplomacy.

20 And for that purpose they have appointed as their respective
21 Plenipotentiaries:

22 The President of the United States of America, the Honorable
23 Philander C. Knox, Secretary of State of the United States;
24 and

25 The President of the French Republic, His Excellency J. J.
26 Jusserand, Ambassador of the French Republic at Wash-
27 ington;

28 Who, duly authorized, have agreed upon the following Articles:

29 ARTICLE I.

30 All differences hereafter arising between the High Contracting
31 Parties, which it has not been possible to adjust by diplomacy,
32 relating to international matters in which the High Contracting
33 Parties are concerned by virtue of a claim of right made by one
34 against the other under treaty or otherwise, and which are jus-
35 tifiable in their nature by reason of being susceptible of decision
36 by the application of the principles of law or equity, shall be
37 submitted to the Permanent Court of Arbitration established at
38 The Hague by the Convention of October 18, 1907, or to some other
39 arbitral tribunal, as *shall* [may] be decided in each case by special

1 agreement, which special agreement shall provide for the organi-
2 zation of such tribunal if necessary, define the scope of the powers
3 of the arbitrators, the question or questions at issue, and settle
4 the terms of reference and the procedure thereunder.

5 The provisions of Articles 37 to 90, inclusive, of the Conven-
6 tion for the Pacific Settlement of International Disputes con-
7 cluded at the Second Peace Conference at The Hague on the 18th
8 October, 1907, so far as applicable, and unless they are incon-
9 sistent with or modified by the provisions of the special agree-
10 ment to be concluded in each case, and excepting Articles 53 and
11 54 of such Convention, shall govern the arbitration proceedings
12 to be taken under this Treaty.

13 The special agreement in each case shall be made on the part
14 of the United States by the President of the United States, by
15 and with the advice and consent of the Senate thereof, and on
16 the part of France subject to the procedure required by the con-
17 stitutional laws of France.

18 Such agreements shall be binding when confirmed by the two
19 Governments by an exchange of notes.

20 ARTICLE II.

21 The High Contracting Parties further agree to institute as
22 occasion arises, and as hereinafter provided, a Joint High Com-
23 mission of Inquiry to which, upon the request of either Party,
24 shall be referred for impartial and conscientious investigation
25 any controversy between the Parties within the scope of Article I,
26 before such controversy has been submitted to arbitration, and
27 also any other controversy hereafter arising between them even
28 if they are not agreed that it falls within the scope of Article I;
29 provided, however, that such reference may be postponed until
30 the expiration of one year after the date of the formal request
31 therefor, in order to afford an opportunity for diplomatic dis-
32 cussion and adjustment of the questions in controversy, if either
33 Party desires such postponement.

34 Whenever a question or matter of difference is referred to the
35 Joint High Commission of Inquiry, as herein provided, each of
36 the High Contracting Parties shall designate three of its nationals
37 to act as members of the Commission of Inquiry for the purposes
38 of such reference; or the Commission may be otherwise consti-
39 tuted in any particular case by the terms of reference, the mem-

1 bership of the Commission and the terms of reference to be
2 determined in each case by an exchange of notes.

3 The provisions of Articles 9 to 36, inclusive, of the Convention
4 for the Pacific Settlement of International Disputes concluded at
5 The Hague on the 18th October, 1907, so far as applicable and
6 unless they are inconsistent with the provisions of this Treaty,
7 or are modified by the terms of reference agreed upon in any
8 particular case, shall govern the organization and procedure of
9 the Commission.

10

ARTICLE III.

11 The Joint High Commission of Inquiry, instituted in each
12 case as provided for in Article II, is authorized to examine into
13 and report upon the particular questions or matters referred to
14 it, for the purpose of facilitating the solution of disputes by
15 elucidating the facts, and to define the issues presented by such
16 questions, and also to include in its report such recommendations
17 and conclusions as may be appropriate.

18 The reports of the Commission shall not be regarded as
19 decisions of the questions or matters so submitted either on the
20 facts or on the law, and shall in no way have the character of an
21 arbitral award.

22 [It is further agreed, however, that in cases in which the
23 Parties disagree as to whether or not a difference is subject to
24 arbitration under Article I of this Treaty, that question shall be
25 submitted to the Joint High Commission of Inquiry; and if all
26 or all but one of the members of the Commission agree and
27 report that such difference is within the scope of Article I, it
28 shall be referred to arbitration in accordance with the provisions
29 of this Treaty.]

30

ARTICLE IV.

31 The Commission shall have power to administer oaths to wit-
32 nesses and take evidence on oath whenever deemed necessary in
33 any proceeding, or inquiry, or matter within its jurisdiction under
34 this Treaty; and the High Contracting Parties agree to adopt
35 such legislation as may be appropriate and necessary to give
36 the Commission the powers above mentioned, and to provide
37 for the issue of subpoenas and for compelling the attendance
38 of witnesses in the proceedings before the Commission.

1 On the inquiry both sides must be heard, and each Party is
2 entitled to appoint an Agent, whose duty it shall be to repre-
3 sent his Government before the Commission and to present to
4 the Commission, either personally or through counsel retained
5 for that purpose, such evidence and arguments as he may deem
6 necessary and appropriate for the information of the Commis-
7 sion.

8 ARTICLE V.

9 The Commission shall meet whenever called upon to make an
10 examination and report under the terms of this Treaty, and the
11 Commission may fix such times and places for its meetings as
12 may be necessary, subject at all times to special call or direction
13 of the two Governments. Each Commissioner, upon the first
14 joint meeting of the Commission after his appointment, shall,
15 before proceeding with the work of the Commission, make and
16 subscribe a solemn declaration in writing that he will faithfully
17 and impartially perform the duties imposed upon him under this
18 Treaty, and such declaration shall be entered on the records of
19 the proceedings of the Commission.

20 The United States and French sections of the Commission
21 may each appoint a secretary, and these shall act as joint secre-
22 taries of the Commission at its joint sessions, and the Commission
23 may employ experts and clerical assistants from time to time
24 as it may deem advisable. The salaries and personal expenses
25 of the Commission and of the agents and counsel and of the sec-
26 retaries shall be paid by their respective Governments, and all
27 reasonable and necessary joint expenses of the Commission
28 incurred by it shall be paid in equal moieties by the High Con-
29 tracting Parties.

30 ARTICLE VI.

31 This Treaty shall supersede the Arbitration Treaty concluded
32 between the High Contracting Parties on February 10, 1908.

33 ARTICLE VII.

34 The present Treaty shall be ratified by the President of the
35 United States of America, by and with the advice and consent
36 of the Senate thereof, and by the President of the French
37 Republic, in accordance with the constitutional laws of France.
38 The ratifications shall be exchanged at Washington as soon
39 as possible and the Treaty shall take effect on the date of the

1 exchange of its ratifications. It shall thereafter remain in
2 force continuously unless and until terminated by twelve
3 months' written notice given by either High Contracting Party
4 to the other.

5 In faith whereof the respective Plenipotentiaries have signed
6 this Treaty in duplicate in the English and French languages
7 and have hereunto affixed their seals.

8 Done at Washington and Paris this third day of August,
9 one thousand nine hundred and eleven.

[SEAL.]

PHILANDER C. KNOX.

[SEAL.]

JUSSERAND.

I certify that the foregoing is a true copy of the treaty this day
signed.

PHILANDER C. KNOX,
Secretary of State.

AUGUST 3, 1911.

IN EXECUTIVE SESSION, SENATE OF THE UNITED STATES.

(Legislative day, MARCH 5, 1912; calendar day, MARCH 7, 1912.)

Resolved (two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of a treaty signed by the plenipotentiaries of the United States and France on August 3, 1911, extending the scope and obligation of the policy of arbitration adopted in the present arbitration treaty of February 10, 1908, between the two countries, so as to exclude certain exceptions contained in that treaty and to provide means for the peaceful solution of all questions of difference which it shall be found impossible in future to settle by diplomacy, with the following

AMENDMENTS.

On page 2, line 39, after the word "tribunal" insert a comma.

In the same line strike out the word "may" and insert "shall."

On page 4 strike out the paragraph commencing on line 22 and ending on line 29.

Provided, That the Senate advises and consents to the ratification of the said treaty with the understanding, to be made part of such ratification, that the treaty does not authorize the submission to arbitration of any question which affects the admission of aliens into the United States, or the admission of aliens to the educational institutions of the several States, or the territorial integrity of the several States or of the United States, or concerning the question of the alleged indebtedness or monied obligation of any State of the United States, or any question which depends upon or involves the maintenance of the traditional attitude of the United States concerning American questions, commonly described as the Monroe doctrine, or other purely governmental policy.

Attest:

CHARLES G. BENNETT,
Secretary.

By H. M. ROSE,
Assistant Secretary.

○

